

AO 91 (Rev. 11/11) Criminal Complaint

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UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

United States of America
v.
David E. Mullins
5539 Pinehurst Dr. Apt. C
Hilliard, OH 43026

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Case No. 2:13-mj-364

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 9, 2013 in the county of Franklin in the
Southern District of Ohio, the defendant(s) violated:

Code Section

Offense Description

Title 18 United States Code (USC)
2422 (b),

Attempted Enticement of a Minor For Unlawful Sexual Activity

This criminal complaint is based on these facts:
See attached affidavit Incorporated by reference herein

☒ Continued on the attached sheet.

TFO [Signature] #1032 HSI
Complainant's signature

TFO Marcus Penwell HSI
Printed name and title

Sworn to before me and signed in my presence.

Date: 7/9/13
07/08/2013

City and state: Columbus, Ohio

[Signature]
Judge's signature
Norah M. King U.S. Magistrate Judge
Printed name and title

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT, EASTERN DIVISION OF OHIO

In the Matter of the Criminal Complaint:

United States of America

V.

David E. Mullins
5374 Morning Dr.
Hilliard, OH 43026

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Task Force Officer (TFO) Marcus Penwell, being first duly sworn, hereby depose and state as follows:

1. I, ICE/HSI TFO Marcus Penwell (your affiant), a Detective with the Franklin County, Ohio Sheriff's Office, make this affidavit in support of a criminal complaint to arrest for violation of Title 18 United States Code (USC) 2422 (b), Attempted Enticement of a Minor For Unlawful Sexual Activity. Since this affidavit is being submitted for the limited purpose of securing an arrest warrant, your affiant did not include each and every fact known concerning this investigation. Your affiant did not withhold any information or evidence that would negate probable cause. Your affiant set forth only the facts that are believed to be necessary to establish probable cause that David E. Mullins committed the violation listed above.

2. Your affiant has been employed by the Franklin County Sheriff's Office since September of 2003. Since July of 2008, your affiant has been assigned to the Special Investigations Unit as a detective, conducting online child enticement and child pornography investigations as part of an Internet Crime Against Children (ICAC) Task Force. Your affiant gained experience through a Bachelor of Arts Degree in Criminal Justice, and has received specialized training in the area of internet crimes involving child exploitation and child pornography. Your affiant has been involved in more than two hundred investigations involving internet crimes against children, resulting in numerous felony arrests and convictions. Your affiant was trained and certified by ICE/HSI as a federal task force officer to conduct child exploitation investigations involving federal criminal statutes, such as Title 18 USC § 2422.

3. On May 6, 2013, Detective Marcus Penwell, working in an undercover capacity, sent an e-mail in response to an online ad posted on the website craigslist.com. The ad indicated that the person who had posted it was looking for "guys with wife gf daught mom sis. etc." and that the person was "also into straight porn and taboo." In the initial e-mail, Detective Penwell indicated that he was the "active foster dad" of two children. Detective Penwell received a response from the person who had posted the ad, who was later identified as David Mullins (herein referred to

as Mullins). The response stated, "sounds hot ages girls?" Mullins further responded, "love cute young girls."

4. During the email exchange that followed, Mullins was provided a photograph that purported to be Detective Penwell's 12-year-old daughter. After receiving the photo, Mullins stated "omg so beautiful ever want to host and get off together". When asked for greater detail regarding what he was interested in, Mullins indicated he would be interested in watching or trading videos with Detective Penwell's online persona, and that they "can get into much more would love to meet you and your daughter." Mullins said that he "would love all 3 of us to meet" but then indicated that he wanted to set up a meeting with just Detective Penwell's persona in order for the two to get to know each other. After further discussions about a time and date for the meeting, Detective Penwell's persona asked Mullins if he wanted the meet to be just Mullins and the persona trading videos or if Mullins wanted the fictitious daughter to be involved as well. Mullins responded that it would "be nice for the 3 of us to get to know each other."

5. The conversation then returned to trading child pornography images and videos, and Mullins indicated that he had images depicting children from age 5 to 13. Mullins indicated that he would like to meet with the persona around lunch time to look at/exchange child pornography and "then maybe meet her when school lets out." He was then informed that he would not be able to meet the daughter until he and the persona were in agreement regarding what Mullins wanted to do sexually with the daughter.

6. At that point, the conversation was continued via text message. During the text message conversation, Mullins informed Detective Penwell's persona that he was not into anything weird, but did like to "chicks legs in nylons." When Detective Penwell's persona indicated that his daughter had pantyhose that she wore with a dress for a school occasion, Mullins responded, "Very nice bet its sexy."

7. During the text message conversation, Detective Penwell's person and Mullins agreed to meet on May 9, 2013 at approximately 2:00pm. On the morning of May 9, Mullins asked the persona if they could meet earlier and go back to the persona's place to "check out some pics before you pick your daught up from school." Mullins indicated that he did not want to discuss anything in public. They then agreed to meet at a public location in Columbus, Ohio, where they would meet in the car and exchange child pornography images prior to going to the persona's house. Mullins indicated that he wanted the persona to send him a child pornography image prior to the meet because he was afraid he was getting set up. The persona indicated that he did not have any child pornography with him at work and that he would try to put one on his phone for Mullins to see, prior to meeting Mullins at the previously-agreed public location. Mullins agreed to this.

8. On May 9, 2013, Detective Penwell met with Mullins in an undercover capacity in a parking lot next to the agreed public location. At this time, Mullins showed Detective Penwell a picture on his phone of a prepubescent girl posed nude and Detective Penwell showed Mullins a screen shot of an online image that depicted a nude young-looking adult. After they had each shared the photos, Mullins asked if Detective Penwell wanted to return to Penwell's place to look at more photos. Detective Penwell indicated that he would need further assurances about what exactly Mullins wanted before allowing Mullins to see where he lived, in order to protect his daughter.

Mullins then stated that he could show Detective Penwell another photo and that he would like to meet Detective Penwell's daughter. After further discussion, Mullins stated that he wanted to engage in vaginal and oral sex with what he believed to be Detective Penwell's 12-year-old daughter. The entire conversation between Mullins and Detective Penwell was recorded.

9. Subsequent to the meeting with Detective Penwell, Mullins was placed under arrest and was interviewed. During the interview, Mullins admitted that he had solicited what he believed to be the foster father of a minor girl to engage in sexual activity with the juvenile. Mullins stated that he had used the email address davemullin55@gmail.com to communicate with Detective Penwell and to post his online ad. Mullins further admitted that he had images of child pornography saved on his phone in a file listed as a music file.

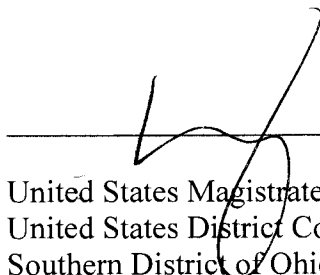
10. Mullins' Samsung cellular phone that he used to show Detective Penwell the child pornography image was seized from his vehicle. Detective Penwell obtained a search warrant for the phone and it was forensically analyzed. Approximately 12 to 15 images of child pornography were located on the phone. All of the images were of what appeared to be prepubescent females either posed nude with the focus of the picture on the vaginal area or prepubescent or young teen females engaged in sexual activity.

11. Based upon the above information, your affiant believes there is probable cause to believe David E. Mullins is responsible for the Attempted Enticement of a Minor For Unlawful Sexual Activity. Therefore, your affiant respectfully requests this court issue an arrest warrant.

12. Sexual Conduct with a person under the age of 13 constitutes rape under Ohio Law ORC Section 2907.02 (A)(b). Under Ohio Law an attempt to commit an offense constitutes an offense.
(ORC Section 2923.02)

TFD  #1032 HSI
M. PENWELL, TFD
TFD ICE/HSI

Sworn to and subscribed before me this 9th day of July, 2013.


United States Magistrate Judge
United States District Court
Southern District of Ohio

N m King, U.S.M.